

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH DAKOTA  
CENTRAL DIVISION**

GOVERNOR KRISTI NOEM, in her  
official capacity as the Governor of  
South Dakota, et al.,

*Plaintiffs,*

v.

DEB HAALAND, in her official  
capacity as United States Secretary of the  
Interior, et al.,

*Defendants.*

Case No. 3:21-cv-03009

**PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

South Dakota has hosted an annual Independence Day fireworks celebration at Mount Rushmore National Memorial (the “Memorial”) since 1998. After a several-year pause due to forest conditions, the State resumed the event in 2020, pursuant to a permit issued by the Department of the Interior (the “Department”). The Department conducted a risk assessment and determined that the fireworks show posed little risk to the environment or public safety, and the State hosted a safe and successful event on July 3, 2020.

This year, however, the Department denied the State’s permit request for an identical fireworks celebration in July 2021, even though risk levels are even lower this year than they were in 2020. Worse, the Department provided no substantive

explanation for the denial. Plaintiffs, Kristi Noem, in her official capacity as Governor of South Dakota, and the State of South Dakota (the “State”), challenge this denial as an arbitrary and capricious agency action under the Administrative Procedure Act, 5 U.S.C. §706.

Plaintiffs ask this Court to issue a preliminary injunction requiring Defendants to grant the State’s request for a permit to host a fireworks celebration at the Memorial on July 3, July 4, or July 5, 2021. Fed. R. Civ. P. 65; D.S.D. Civ. LR 65.1.

Plaintiffs are entitled to preliminary relief. The permit denial is a likely violation of the APA because it was issued without any reasoned explanation, and DOI’s decision runs counter to the evidence in the record. Plaintiffs will be irreparably harmed in the absence of preliminary relief: The State and its economy will lose tens of millions of dollars in direct spending and earned advertising if the fireworks event is canceled, and the State will also suffer reputational damages that cannot be remedied through an award of damages. And because the permit denial is likely unlawful, the equities and public interest necessarily favor an injunction. For all these reasons, which are detailed in an accompanying memorandum of law, per D.S.D. Civ. LR 7.1(B), the Court should grant this motion and enter a preliminary injunction.

Dated: April 30, 2021

Respectfully submitted,

*/s/ Katie Hruska*

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### **CERTIFICATE OF SERVICE**

I hereby certify that on April 30, 2021, I caused the foregoing document to be served on all parties through in-person service of process.

/s/ *Katie Hruska*  
Katie Hruska